

AMENDED IN ASSEMBLY APRIL 12, 2004
AMENDED IN ASSEMBLY MARCH 31, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 3035

Introduced by Assembly Member Yee

February 26, 2004

~~An act to add Section 1254.8 to the Health and Safety Code, relating to health facilities. An act to add Section 56.100 to the Civil Code, relating to confidentiality of medical information.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 3035, as amended, Yee. ~~Health facilities: neonatal intensive care units Confidentiality of medical information.~~

Existing law provides for the licensure and regulation by the State Department of Health Services of health facilities, including hospitals. Existing law requires a general acute care hospital to provide basic services, and authorizes the hospital, upon approval of the department, to provide special service confidentiality of medical information. These provisions generally prohibit a provider of health care or a health care service plan, as defined, from disclosing medical information regarding a patient. However, the information may be disclosed to any person who provides billing, claims management, medical data processing, or other administrative services. A violation of these provisions is subject to criminal sanction that results in economic loss or personal injury to a patient is a misdemeanor. In addition, any individual may bring an action for damages against any person or entity who has negligently

released confidential information or records concerning that individual in violation of these provisions.

This bill would prohibit, with some exceptions, a hospital that does not have a neonatal intensive care unit (NICU) onsite from delivering a fetus that the hospital knows, or has reason to know, has been diagnosed with a congenital abnormality that will require surgical intervention a provider of health care or a health care service plan employed or operated by the University of California, as specified, from disclosing medical information regarding a patient to a person or entity that provides medical data processing, but would permit those entities to disclose that information to persons or entities under specified circumstances.

Because this bill would add to the requirements of health facilities provisions governing the confidentiality of medical information, a violation of which would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1254.8 is added to the Health and Safety~~
- 2 *SECTION 1. Section 56.100 is added to the Civil Code,*
- 3 *immediately following Section 56.10, to read:*
- 4 *56.100. (a) Notwithstanding paragraph (3) of subdivision*
- 5 *(c) of Section 56.10, a provider of health care or a health care*
- 6 *service plan that is employed or operated by the University of*
- 7 *California or any branch thereof, solely or in conjunction with any*
- 8 *other entity, may not disclose the information referred to in that*
- 9 *paragraph to a person or entity that provides medical data*
- 10 *processing, except as provided in subdivision (b).*
- 11 *(b) A provider of health care or a health care service plan that*
- 12 *is employed or operated by the University of California or any*
- 13 *branch thereof, solely or in conjunction with any other entity, may*

disclose information referred to in that paragraph to persons or entities who provide billing, claims management, or other administrative services only if that provider or health care service plan implements the most stringent applicable provisions of state or federal law governing the disclosure of that information, whichever provisions provide the greatest privacy protection.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California

Constitution.

Code, to read:
1254.8. (a) Except as provided in subdivision (b), a hospital that does not have a regional neonatal intensive care unit (NICU) onsite shall not deliver a fetus that the hospital knows, or has reason to know, has been diagnosed with a congenital abnormality that will require surgical intervention.

(b) (1) Subdivision (a) does not apply to a small and rural hospital, as defined in Section 124840.

(2) Subdivision (a) does not apply to an emergency situation. However, if a hospital is required to commence delivery of a fetus that has been diagnosed with a congenital abnormality requiring surgical intervention in an emergency situation, the hospital, as soon as the hospital becomes aware of the status of the fetus, shall notify the nearest hospital that has a NICU onsite.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.